

12.9	Brimbank Arts Advisory Committee - Terms of Reference
Directorate	Community Wellbeing
Director	Lynley Dumble
Manager	Rose Bruhn
Attachment(s)	1. Brimbank Arts Advisory Committee Terms of Reference April 2024 [12.9.1 - 5 pages] 2. Brimbank Public Art Selection and Approval Process [12.9.2 - 5 pages]

Purpose

For Council to consider the draft Brimbank Arts Advisory Committee (BAAC) Terms of Reference (TOR) and adopt its use for the next iteration of the committee.

Officer Recommendation

That Council:

- a. **Adopts the revised Brimbank Arts Advisory Committee Terms of Reference at Attachment 1 to this report**
- b. **Approves the recruitment through an Expression of Interest process, of arts sector and community members to the Brimbank Arts Advisory Committee members for a two-year period.**

Background

The Brimbank Arts Advisory Committee (BAAC) brings arts sector expertise to help the Council envisage and develop creative projects in line with the Arts and Cultural Strategy 2024-2028. Committee members act as cultural champions, discussing community needs and issues, advocating for the arts, providing feedback and aiding in the dissemination of relevant information.

BAAC has been supporting Council with advice relating to Arts and Culture projects for more than 10 years. During this time, BAAC's scope has been reviewed and adjusted to align with the expanding remit of Council's Arts and Culture offering. The opportunity to revise BAAC's Terms of Reference (TOR) arises every two years when each iteration of the Committee concludes its tenure.

The current revision aims to strengthen and clarify the advisory role of the committee and empower its members as cultural champions for Brimbank.

Matters for Consideration

Analysis

In developing the revised TOR, Council officers benchmarked against several Western Metropolitan councils. The revised TOR clarifies the committee's role and emphasises its advisory, rather than decision-making, function. This reiterates the committee's function and authority.

Another proposed change to the committee's structure is an increase in the number of committee members from 12 to up to 15. This increase is intended to provide the committee with greater breadth and expertise. It also allows for the formation of subcommittees for specialised projects, such as Public Art commissioning (process as per attachment). While the sub-committee function is retained from the previous TOR, it was previously not enacted due to the smaller membership.

Revised TOR for the BAAC that reflect these changes are documented in **Attachment 1**. Related TOR for BAAC sub-committee for commissioning and selecting public art are documented in **Attachment 2**.

Implementation

If the draft TOR are adopted at the Council meeting, Council officers will proceed with an Expression of Interest process to establish the committee. The selection of community committee members would occur in mid-July, with a proposed date for the first meeting set for late July to early August 2024. The current Councillors on the committee would continue in their role for this meeting. This introductory meeting would be an opportunity for new members to meet and become better acquainted with current Arts and Culture delivery. It would occur prior to the caretaker period and not involve Council in any new programs or commitments.

In the next term of Council, Councillor appointments to the Brimbank Arts Brimbank Arts Advisory Committee will be made as part of the appointment of Councillors to Advisory Committees.

Community Engagement

The revision of the TOR began with an engagement session involving community members from the previous iteration of BAAC. While these members praised the Council's commendable work in arts and culture, they also expressed frustration regarding some members' attendance at meetings and the frequent lack of quorum, which led to meetings being postponed or cancelled. They recommended establishing a means for meetings to proceed regardless of attendance numbers, feeling their opportunity to provide advice had been somewhat restricted. The revised TOR allows for meetings to proceed without a quorum as a quorum will only apply to items on the agenda that require a recommendation to Council.

If the TOR is adopted, the next phase of community engagement will involve establishing the committee. This process will invite community members with expertise in the arts sector to apply for committee membership. Ideally this membership would include diversity and a breadth of experience in different areas of the arts sector such as visual and digital arts, public art, theatre and performance, community art and arts administration. Successful applicants will then serve on the BAAC for a two-year term, providing ongoing community engagement and advice in the development and governance of creative projects in alignment with the Arts and Culture Strategy for 2024-2028.

Resource And Risk Implications

Resourcing for BAAC is provided in the Arts and Culture operating budget.

Community: potential impact on community, including public trust and customer service impact

- Yes - There is a reputational risk if the Arts Advisory Committee does not proceed. The

committee plays a central role in incorporating the community's voice into Arts and Culture programming. Some art programs may be challenging and occasionally cause community concern. The committee serves as an important mechanism to ensure community perspectives and sensitivities are considered in programming.

There are no environmental, financial, regulatory or safety risks.

Legislation/Council Plan/Policy Context

This report supports the Council Plan 2021-2025 strategic directions and objectives of:

1. People and Community - A welcoming, safe and supported community - an inclusive place for all

- Pride and Participation: community and cultural connections built through social and artistic expression.

2. Places and Spaces – Liveable and connected neighbourhoods that support healthy and sustainable futures – a green place for all

- Liveable and connected – inviting and liveable spaces and facilities

This report complies with the draft Arts and Culture Strategy 2024 -2028.

Council officers contributing to the preparation and approval of this report, have no conflicts of interests to declare.



Brimbank Arts Advisory Committee

Terms of Reference

1 Purpose

The purpose of the Brimbank Arts Advisory Committee (the Committee) is to provide arts sector expertise to help the Council develop and govern creative projects in accordance with the Arts and Culture Strategy 2024-2028. Committee members act as cultural champions and engage in discussions on community needs and issues, advocate for the arts, offer feedback and disseminate information.

2 Objectives

The Committee's objectives are to:

- a. Ensure creative strategies undertaken by the Council through this Committee have expert arts sector and community input.
- b. Build connections between Council and the community regarding creative projects.
- c. Provide strategic input to policy development in relation to Brimbank's creative sector, when required by Council.
- d. Raise community and arts sector awareness about the work being undertaken by Council in the creative arena.

3 Extent of Authority

- 3.1 The Committee acts in an advisory capacity to Council and is not a committee established by Delegated Committee in accordance with section 63 of the *Local Government Act 2020*.
- 3.2 The Committee does not exercise any power of Council.
- 3.3 The Committee has no power to commit Council to any decision or action.
- 3.4 The Committee has no power to direct Council officers in their duties.
- 3.5 Brimbank City Council hereby establishes the Brimbank Arts Advisory Committee ("the Committee") and delegates the duties, responsibilities and authorities described below to the Committee.
- 3.6 The Committee, which includes experts from the arts sector, contributes strategic thinking to the Council through its advisory capacity.
- 3.7 The Committee has no power to commit Council to any decisions or actions or to direct Council officers in their duties.
- 3.8 The Committee shall be established for a period of 2 years.
- 3.9 These terms of reference apply to the Committee only. References in this document to 'the Chairperson' are to the Committee Chairperson.

The input and advocacy of the Committee may be broad but its interests include:

- Council strategic documents
- Public art commissions
- The Brimbank City Council Art Collection
- The Bowery Theatre
- Arts programming and projects across all Council venues including neighbourhood houses, libraries, community centres and galleries.

4 Committee Behaviours

4.1 The Committee will be guided by Council's values and behaviours:

- We act with Integrity
- We find Better Ways
- We are Respectful
- We work Together.

4.2 All members are required to refrain from bullying and harassment.

4.3 All members must engage in behaviours that are respectful, tolerant, courteous and collaborative.

4.4 Committee members who are Councillors will comply with the Councillor Code of Conduct.

4.5 Committee members who are staff members of Brimbank City Council will comply with the current employee Code of Conduct while performing duties as committee members. Members who are not staff members or Councillors are required to meet the standards of Committee behaviours in this section and are further required to keep all information that is provided as a consequence of their membership in the Committee confidential.

4.6 The Chair has the ability to remove members from a committee meeting or revoke membership of the committee if they deem any non-staff or non-Councillor member is engaging in behaviours that do not meet the required standards.

4.7 The Chief Executive Officer has the ability to remove any non-Councillor member from this committee where it is believed that a member is engaging in behaviours that create a risk to the health and safety of other members.

5 Conflicts of Interest

5.1 The Committee will recognise that members will have different obligations and methods of disclosure under the *Local Government Act 2020* and the Brimbank Governance Rules.

5.2 Committee members must disclose any General or Material Conflicts of Interest prior to their appointment, and on an ongoing basis, in accordance with the *Local Government Act 2020* and the Brimbank Governance Rules.

5.3 Committee members will disclose to the Committee at, or before, each meeting if they have disclosed any Conflict of Interest in accordance with their obligations under the *Local Government Act 2020* or the Brimbank Governance Rules in relation to any matter to be discussed in the agenda at that meeting and identify the relevant item of the agenda for which the Conflict exists.

5.4 A Committee member who is not a relevant person under the *Local Government Act* will disclose any potential or perceived conflict of interest to the Chair on appointment to the

Committee and on an ongoing basis and identify the relevant item of the agenda for which the Conflict exists.

- 5.5 Committee members must absent themselves from discussions in relation to matters which they have disclosed a conflict of interest.

6 Membership

- 6.1 The Committee will comprise:

- 8-12 Representatives of arts sector stakeholders and community members
- 1 Brimbank City Councillor (who will act as Chair)
- Up to 2 additional Brimbank City Councillors
- Director Community Wellbeing (ex-officio)
- Manager Community Learning and Participation (ex-officio)
- Brimbank City Council Arts and Culture Coordinator (ex-officio)
- Brimbank City Council Visual & Public Arts Senior Officer (ex-officio).

- 6.2 The Council officer positions do not hold voting rights.

- 6.3 The Chair, in consultation with the Committee, may co-opt additional members on an ex-officio basis where specific skills or experience will assist the work of the Committee.

- 6.4 Members are free to resign from the Committee at any time. In the event of a resignation during the term, the Director Community Wellbeing will have the delegated authority to review applications from an Expression of Interest process and appoint a new member for the remainder of the term.

- 6.5 Each member of the Committee is selected for their individual expertise and not as an advocate for any group or organisation.

- 6.6 The Chair, in consultation with the Committee, may co-opt additional Council staff, guest Consultative bodies and other professionals to attend meetings to present, or respond to, agenda items on an ex-officio basis only for the purpose of providing relevant information and advice on matters being considered by the Committee.

- 6.7 The Committee may establish working groups (sub-committees) to help fulfil its purpose. Members of working groups will be appointed by the Committee and can be drawn from the Committee, from Council, third party organisations, industry experts or other community members.

7 Recruitment

- 7.1 Council will appoint Councillor representative/s to the Committee and determine the Chair

- 7.2 The Director of Community Wellbeing will appoint other members to the Committee, and fill vacancies as they arise

- 7.3 Appointments will be reviewed annually, or as needed.

8 Procedures

- 8.1 The Committee will be led by a Chair, whose role is to:

- Ensure meetings are scheduled and committee members are notified

- Invite specialists to attend meetings as required
- Guide the meeting according to the agenda and time available
- Ensure all discussion items end with a decision, action or definite outcome
- Review and approve the agenda and draft minutes before distribution.
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9 Meetings

- 9.1 A minimum of three 90-minute meetings of the general committee during the calendar year.
- 9.2 The Chairperson will decide if additional general meetings, or project specific sub-committee meetings, are required for the Committee to fulfil its duties.
- 9.3 Meetings will be held after usual business hours, unless otherwise agreed to by the Committee.
- 9.4 A meeting schedule will be determined at the first meeting.
- 9.5 The location of meetings will be determined by the Committee.
- 9.6 Council will provide administrative support to the Committee for the purpose of:
- convening meetings, i.e. booking meeting rooms and arranging invitations
 - preparation and distribution of agendas and minutes
 - minute taking
 - Ensure meetings are scheduled and committee members are notified
 - Invite specialists to attend meetings as required.
- 9.7 If the Chair is not able to attend a meeting they will delegate the role of Chair to one of the Councillor members or Director Community Wellbeing.

Minutes and Agendas

- 9.8 Agendas will be distributed one week prior to the meeting.
- 9.9 Minutes will be distributed within one week of the meeting being held.
- 9.10 The Committee will be required to endorse the minutes as a true and accurate record at the commencement of the next meeting.

Quorum

- 9.11 A quorum of the Committee is 50% of the members plus 1. A quorum is required for matters making recommendations to Council. For a recommendation to be adopted at least 50% of the quorum vote in favour of the recommendation. In the event of an equal number of votes the Chair shall have the casting vote.

Absences

- 9.12 Committee members must advise the Chair or Council officer if they are unable to attend a meeting.
- 9.13 If a Committee member is absent for three consecutive meetings without notice or justifiable reason, the Chair, in consultation with the Committee, will review, and may cancel, their membership.

Attendance by non-members

9.14 Meetings are not open to the public.

9.15 Non-members may attend at the invitation of the Chair.

10 Confidentiality

10.1 From time to time the Committee may discuss or be provided with material that must remain confidential. Such items and discussions will be identified at the time. All Committee members will be required to maintain confidentiality.

10.2 The Chair of the Committee is the media spokesperson.

11 Committee Member Entitlements

11.1 Participation in the Committee is on a voluntary basis for all members of the public.

11.2 Committee members are not entitled to be remunerated for their time/Committee members will be reimbursed for necessary out of pocket expenses incurred while performing duties as a committee member, with such reimbursements to be made in accordance with Brimbank City Council policy and guidelines.

11.3 Staff members are entitled to be remunerated for their time spent on Committee activities as per their current employment agreement.

11.4 Councillors are able to claim expenses in accordance with Brimbank's expense policy. Any expenses claimed by Councillors in their capacity as Committee members will be reviewed by Council's Audit and Risk Committee and reported publicly.

12 Review

12.1 The Terms of Reference will be reviewed and adopted by Council.

12.2 The Committees performance and compliance with its Terms of Reference will be subject to review by Brimbank City Council and the completion of a self-assessment program including:

- Obtaining feedback on the Committees; performance and operations from members
- Assessing the performance of the Committee against its Terms of Reference.

13 Schedule - Documents Incorporated by Reference

13.1 Committee members will comply with the policies and protocols included in the Documents Incorporated by Reference.

- Brimbank City Council Employee Code of Conduct
- *Local Government Act 2020*
- Brimbank Governance Rules
- Arts and Culture Strategy 2024-2028
- Festivals and Events Policy and Strategy 2022-2025
- In the Public Interest: A conflict of interest guide for councillors, delegated committee members and council staff

PUBLIC ART GOVERNANCE MODEL

The commissioning of each new major Public Artwork requires the establishment of two committees:

- A Public Art Advisory Panel (PAAP) which is a subcommittee of the Brimbank Arts Advisory Committee (BAAC)
- A Project Working Group (PWG) made up of Council staff.

The PAAP reviews artists' applications in line with the selection criteria, shortlists candidates and makes recommendations to Council about the preferred project.

Membership includes 1-2 Councillors from BAAC and 2-3 Arts Sector members from BAAC with relevant expertise. This includes an understanding of art in the public domain, experience in working with community and community groups and/or demonstrated interest/experience in public or visual arts.

Council Officers on the PAAP will include the Visual and Public Art Senior Officer and Arts and Culture Coordinator. Depending on the project, additional representatives from other Council Departments may be required such as Parks and the Public Realm, Urban Design, Community Safety or Leisure and Community Facilities.

Similarly, specific projects may require 1-2 community stakeholders if they hold a particular connection to the project or site.

The PWG focuses on the overall delivery of the project, not just the public art. This committee focuses on additional considerations such as access, materiality and maintenance.

The PWG may include relevant stakeholders from other Council departments such as Traffic and Transport, Engineering, Project Management, Urban Design, Arts and Culture, Leisure etcetera.

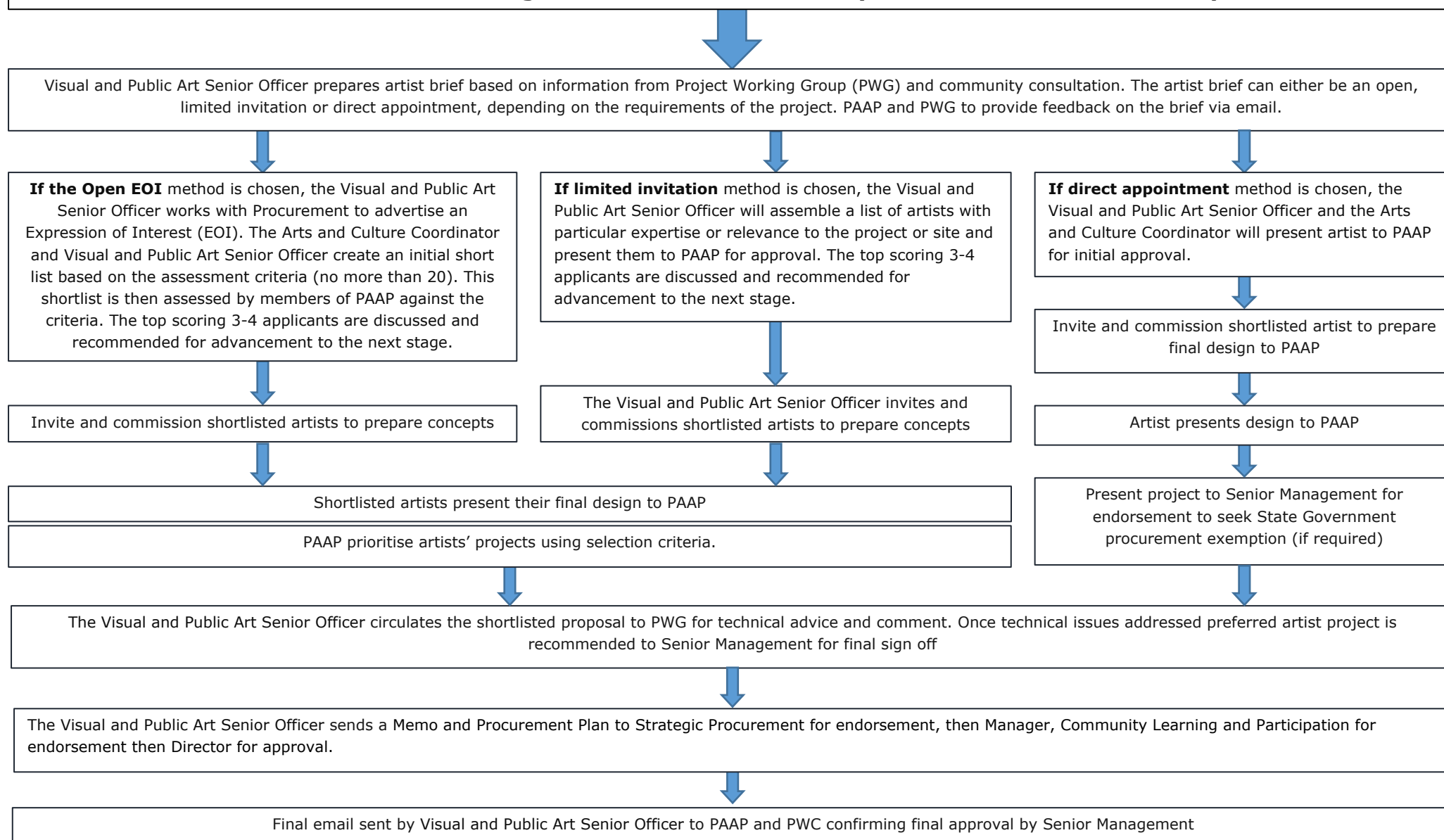
Review, Assessment, Recommendation Process:

See flowchart overleaf

Approvals Process:

1. Memo sent to Manager - Community Learning and Participation for approval (works less than \$20,000)
2. Memo and Procurement Plan to Strategic Procurement for endorsement, to Manager Community Learning and Participation for endorsement, then to Director for approval (works greater than \$20,000)
3. Public art commissions valued at \$250,000 and above shall adhere to established Procurement guidelines, necessitating either a Public Tender or a Selective Tender, thereafter complemented by an Expression of Interest (EOI) process as delineated within the document.

Public Art Advisory Panel public art selection process

Public Art – Major Commissions (\$20,000 - \$250,000)

Draft Terms of Reference Public Art Advisory Panel

The Public Art Panel is a subcommittee of the Brimbank Arts Advisory Committee (BAAC) and operates under the BAAC Terms of Reference in addition to these subcommittee guidelines.

1. Purpose

The Public Art Advisory Panel's (PAAP) purpose is to Contribute to discussion and advise on permanent capital works public art commissions, providing advice on:

- commissioning processes following Brimbank City Council procurement guidelines and one of these processes
 - Open/ EOI - advertise an EOI first, then shortlist
 - Limited invitation - shortlisting up to 3 artists
 - Direct appointment - commissioning a selected artist for specific reasons
- review of artist brief and documentation
- proposals for artists to be shortlisted where required
- artist selection for public art commissions

2. Membership, Term of Appointment

Membership consists of Council Officers, Councillors, BAAC members with relevant expertise and optional additional community members.

- 1-2 Councillors (from BAAC)
- Arts and Culture Coordinator
- Visual and Public Art Senior Officer (if not coordinating the public art project)
- Internal Council representative (optional)
- 2-3 BAAC members with public art experience or understanding/knowledge
- 1-2 Community stakeholders (optional)

The terms of appointment are for the duration of the Public Art Project or until the end of the member's tenure on the Brimbank Arts Advisory Committee.

Recommendations of the PAAP are by consensus. Determining a consensus position may involve a committee vote. All members of the committee have the right to vote except for Council's Visual and Public Art Senior Officer if they are coordinating the public art project. The Visual and Public Art Officer may vote if they are not responsible for coordinating the public art project. In the event of an equal number of votes the Chairperson shall have the casting vote. All members represent the community interest or provide advice on their area of expertise and do not represent individual or sectional interests.

In line with the BAAC Terms of Reference this committee has no power to commit Council to any decisions or actions, or to direct Council officers in their duties. The purpose of the vote is to clarify the PAAP's position in making recommendations to Council. Council will ultimately determine the matters having regard to the advice of the Panel.

All members will be required to complete Confidentiality and Conflict of Interest forms to be a member of the PAAP.

3. Limitations of Authority

The Panel has no authority to:

- Expend moneys on behalf of Council
- Commit Council to any arrangement
- Consider any matter outside these terms of reference
- Direct Council officers in the performance of their duties.

4. Meetings

TOR for Public Art Advisory Panel (draft)

The Panel shall meet up to eight times a year of up to two hours duration, to coincide with timing of Council's public art projects or related projects.

Information including documents may be exchanged by email communication.

5. Administration. Agendas and Minutes

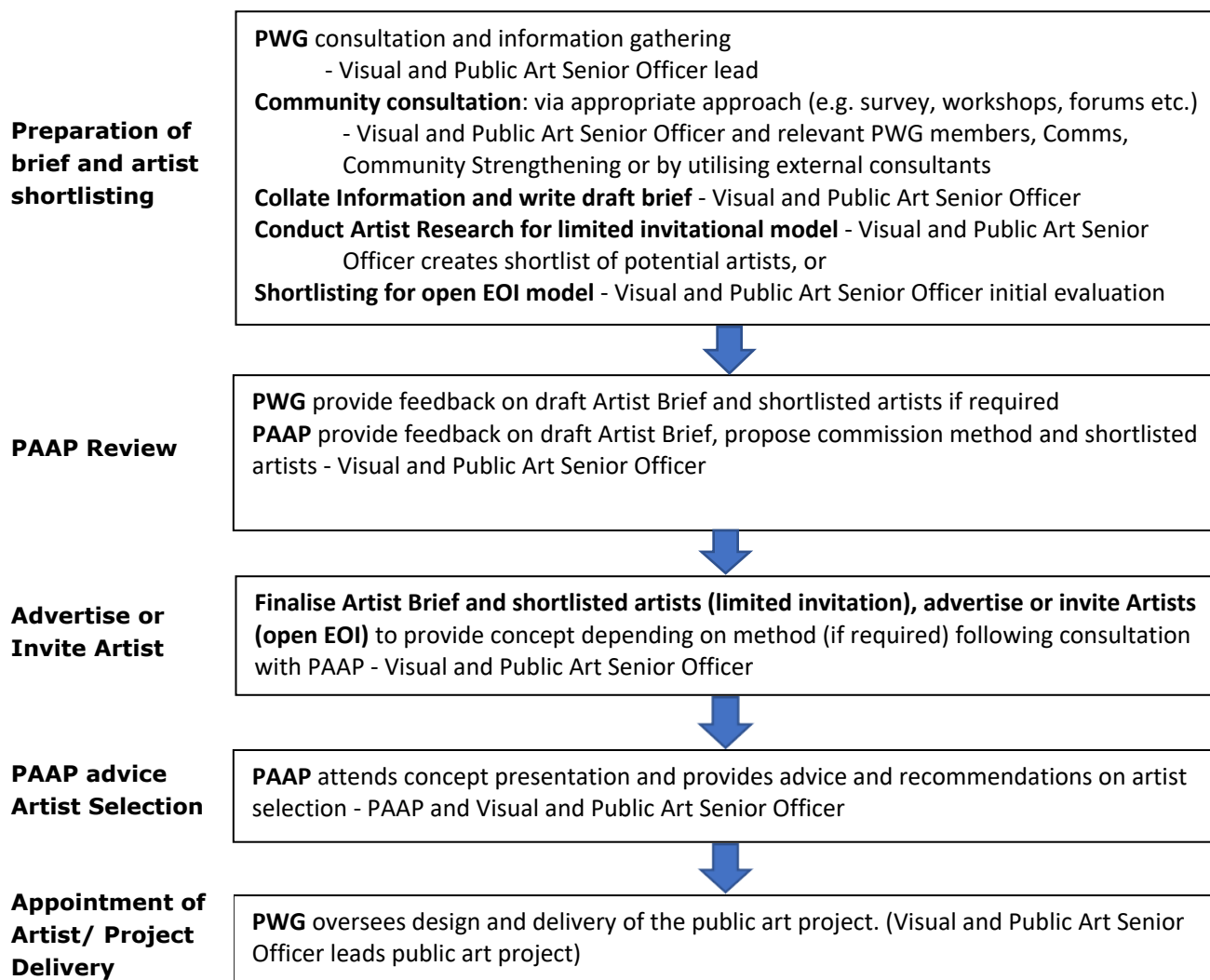
All secretariat tasks for the Panel will be undertaken by Council's Visual and Public Art Senior Officer. Chairperson duties for meetings will be performed by a Councillor.

Agendas and minutes of previous meetings shall be forwarded to members at least five working days before the meeting.

6. Volunteers

Committee members other than Council staff are volunteers.

7. Process for Public Art commissioning



8. Definitions

Key terms	Definition
Public Art	Public art is a place-based creative practice – an evolving and creative conversation between artists and the wider community about and for shared public places. Public art processes may produce permanent or temporary artworks, including participatory and event-based outcomes. Artworks can form a

	part of the infrastructure of the physical built environment, or they can form a part of community engagement processes and cultural programs.
Council officer	Means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer.
PAAP Subcommittee	A subcommittee of the Brimbank Arts Advisory Committee (BAAC)
Open Expression of Interest (EOI)	Open call for artists to express an interest in a public art project. Art industry standards propose that artists can be asked for a CV, a short response to the brief, examples of previously completed commissions and other relevant work.
Limited invitation	A limited invitation invites a selection of artists to respond to a brief. There is no Expression of Interest process for this commissioning model.
Direct appointment	The Visual and Public Art Senior Officer, in consultation with PAAP and the PWG will directly appoint an artist for a particular site or project if there is a strong rationale.